

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-209315

DATE: October 22, 1982

MATTER OF: Capital Engineering and Manufacturing
Company

DIGEST:

Protest concerning bidder's ability to meet contractual requirement is not for consideration as GAO will not review affirmative determination of responsibility in absence of allegation of fraud or misapplication of definitive responsibility criteria in solicitation.

Capital Engineering and Manufacturing Company protests the proposed award of a contract to Florida Ordnance Company under invitation for bids DAAE07-82-B-0107 issued by the U.S. Army Tank Automotive Command. Capital states that the armor cupola castings to be supplied under this solicitation are made from a specialty metal which must, under the terms of the IFB, be melted in the United States. The protester alleges that Florida cannot satisfy this requirement and plans to buy and furnish under the contract castings which have been manufactured in a foreign country.

Whether Florida has the ability to perform the contract in accordance with its terms is a matter of the firm's responsibility, which must be determined in the affirmative by the contracting officer prior to award. Our Office does not review protests against affirmative determinations of responsibility unless either fraud on the part of the procuring officials is alleged or the solicitation contains definitive responsibility criteria which allegedly have been misapplied. Hybrid Abstracts, B-207083, May 24, 1982, 82-1 CPD 488. Neither is the case here. Capital merely complains that Florida will not be able to meet a contractual requirement, and consequently the protest is not for our review.

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The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel